

Remarks

Claims 19-32 are pending.

The Examiner has rejected applicant's claims 19, 21-24 and 26-28 under 35 U.S.C. § 102(e) as being anticipated by the Tanaka patent (U.S. Patent No. 6,329,964). The Examiner has further rejected applicant's claims 20 and 25 under 35 U.S.C. § 103(a) as being unpatentable over the Tanaka patent in view of the Shimada patent (U.S. Patent No. 5,640,171). Finally, the Examiner has rejected claims 30 and 32 under 35 U.S.C. § 103(a) based on the Tanaka patent taken in view of the Reymond patent (FR 2,517,916) and claims 29 and 31 also under 35 U.S.C. § 103(a) based on the Tanaka patent taken in view of the Chikazawa patent (U.S. Patent No. 6,052,166). These rejections are respectfully traversed.

As discussed in applicant's previous Amendment, applicant's independent claims 19 and 24 are directed to a display apparatus and corresponding method, respectively, for displaying a first image for a left eye and a second image for a right eye, including first and second detecting elements for detecting brightness around the left and right eye and first and second brightness adjusting units adapted to adjust image brightness based on the detected brightness. As also discussed in applicant's previous Amendment, these claims further recite that the first detecting element is allocated on the lower side of a first display window which displays the first image, and the second detecting element is allocated on the lower side of a second display window which displays the second image. Such a construction is not taught or suggested by the cited art of record.

The Examiner has argued, with respect to the Tanaka patent and in response to applicant's statements in the above-mentioned previous Amendment as follows:

"Examiner disagrees with applicant this point of view since Figure 3 of Takaka clearly teaches first and second detecting elements (16) for detecting brightness around the left and right

eyes, respectively, each allocated on the lower side of the display window (14). . . . Figure 3 of Tanaka clearly shows the detecting elements (16) located below the display windows (14)."

Applicant again respectfully disagrees with the Examiner. In looking at FIGS. 1, 3, 8, 9, 16 and 21 of the Tanaka patent, these figures are all views of the HMD device of the Tanaka patent looking down from above the user's head. FIG. 1, which is the only figure which shows the user's head, makes this quite clear.

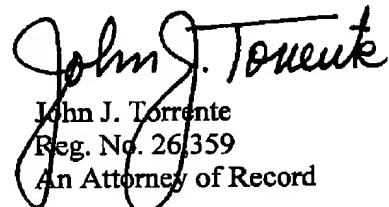
Since FIG. 3 of the Tanaka patent is a view from above looking down, the best that can be said about the positions of the sensors 16 from FIG. 3 is that a first sensor 16 is allocated horizontally on the right hand side of a first LCD 14 and a second sensor 16 is allocated horizontally on the left-hand side of a second LCD 14. There is thus nothing taught or suggested in FIG. 3 of the Tanaka patent as to the vertical positioning of the sensors 16 in relation to the LCDs 14, let alone that they be allocated to a lower side thereof. Moreover, there is nothing stated in the written description of the patent which teaches or suggests this lower side positioning.

Thus, the Examiner's statement that the Tanaka patent in FIG. 3 "clearly teaches first and second detecting elements (16) for detecting brightness around the left and right eyes, respectively, each allocated on the lower side of the display window (14)" is not supported by what the patent actually shows and describes. Accordingly applicant's independent claims 19 and 24, and their respective dependent claims, in reciting "wherein the first detecting element is allocated on the lower side of a first display window which displays the first image, and wherein the second detecting element is allocated on the lower side of a second display window which displays the second image", thus patentably distinguish over Tanaka patent. The cited Shimada, Reymond and Chikazawa patents add nothing to the Tanaka patent to change this conclusion.

In view of the above, it is submitted that applicant's claims patentably distinguish over the cited art of record. Reconsideration of the claims is respectfully requested. If the Examiner believes that an interview would expedite consideration of this Amendment or of the application, a request is made that the Examiner telephone applicant's counsel at (212) 682-9640.

Dated: June 4, 2004

Respectfully submitted,



John J. Torrente  
Reg. No. 263359  
An Attorney of Record

ROBIN, BLECKER & DALEY  
330 Madison Avenue  
New York, New York 10017  
T (212) 682-9640